

RECEIVED
CENTRAL FAX CENTER

JUL 31 2008

67,067-012

REMARKS

Applicant wishes to thank the Examiner for the detailed remarks. Accordingly, claims 2, 3, 5-10, and 12-16 are pending in the application.

Claims 2 and 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Bortugno (5,503,219). Independent claim 12 recites "a gutter wall having a continuous cross section separating the liquid passage and the air flow passage." Bortugno discloses a conventional gutter system having a water trough fitted with a separate airflow passage. The Examiner interprets the wall 23 as the claimed continuous cross section, but the wall 23 appears to be part of the airflow passage and separate from the gutter trough. Additionally, the airflow passage 22 includes a plurality of exhaust ports 29 forming discontinuities in the wall 23. Therefore, wall 23 should not be interpreted as the claimed continuous cross section. For these reasons, claims 2 and 12-16 are allowable.

Claims 3, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bortugno. As discussed above, base claim 12 includes a continuous cross section that is not disclosed nor suggested by Bortugno. For this reason, claims 3, 5, and 6 are allowable.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bortugno in view of Bernardi (3,431,972). However, neither Bernardi nor Bortugno disclose nor suggest a gutter section with both an inlet connector and a return connector in the same gutter section. The heating system of Bernardi includes a single pass flow passage. However, by including the inlet and return connector in the same gutter section, the claimed arrangement provides a dual pass system that would more effectively heat the gutter.

Additionally, Bortugno teaches against the combination of the two references. Bortugno discloses airflow exhaust ports 29 located in an upper portion of an airflow passage. Bernardi discloses a system for removing snow from a roof by mounting a diverter on a roof to bypass the gutters to collect and melt snow to prevent icicles from forming on the edge of the roof. Thus, the system of Bernardi would make heating the gutters in Bortugno unnecessary. Furthermore, the heating system shown in Bernardi does not allow the intake and return passages to run adjacent each other because the system is one pass. Additionally, the snow removal system of Bernardi utilizes hot water, steam, or electrical resistance heating to melt snow that accumulates

67,067-012

against the diverter. Exhausting steam or liquid through the exhaust ports of Bortugno would likely result in undesirable icing in cold weather. Therefore, the combination of the Bortugno reference with the Bernardi reference is improper.

Additionally, the Examiner argues that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to include non-linear portions absent persuasive evidence that the particular configuration of the claimed subject matter was significant. The non-linear portions would allow the inlet and outlet to flow adjacent each other and thereby increase the heat transfer from the air flow passages to the gutter section. Therefore, the claimed subject matter provides a significant benefit that would not have been predicted by the cited references.

Additionally the examiner rejects the claimed multiple air flow passages and the claimed multiple of gutter sections as obvious on the basis that a mere duplication of parts has no patentable significance. MPEP 2143.01(IV) requires the Examiner give a reason why one of ordinary skill would modify the cited reference to include the missing feature in order to establish a prima facie case of obviousness. The rejection does not give any reason for modifying the cited reference.

Moreover, Applicant points out in Figure 2 that the claimed arrangement allows "2-pass" system where both the intake and return passages heat the gutter section, which would not be expected from duplicating a 1-pass passage. Therefore, the claimed arrangement provides a new and unexpected result. For these reason, claims 7 and 8 are allowable.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bortugno in view of Bernardi as applied to claim 8, and further in view of Hamjy (2,240,851). The combination of Bortugno and Bernardi is improper as described above. For this reason, claims 9 and 10 are allowable.

JUL 31 2008

67,067-012

Applicant believes that no additional fees are necessary, however, the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

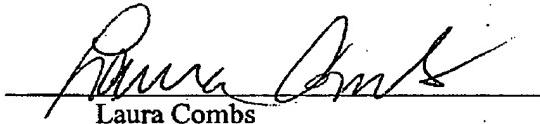
Respectfully submitted,


Matthew L. Koziarz, Reg. No. 53,154
Carlson, Gaskey & Olds
400 W. Maple Road, Ste. 350
Birmingham, MI 48009
(248) 988-8360

Dated: July 31, 2008

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (571) 273-8300, on July 31, 2008.


Laura Combs